

WEBINAR WEDNESDAYS



Wednesday, June 16, 2021

Collection of Eyewitness Identification Evidence

Presented by:

Laura Smalarz

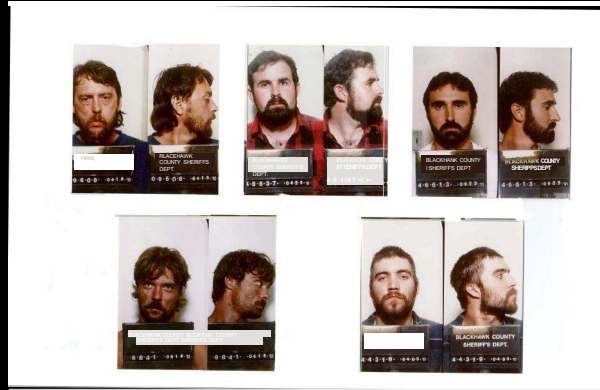
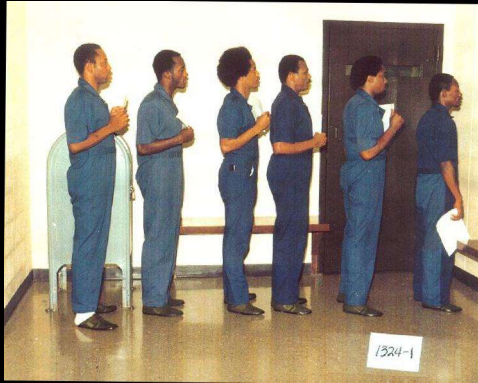
Assistant Professor of Psychology
Arizona State University,
School of Social and Behavioral Sciences

Distributed by:

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL
3838 N. Central Ave., Suite 850
Phoenix, Arizona 85012

ELIZABETH BURTON ORTIZ
EXECUTIVE DIRECTOR

Scientific Best Practices for the Collection of Eyewitness Identification Evidence



Dr. Laura Smalarz
Arizona State University

1

Eyewitness identification

- Perception is interpretive.
- Perception is influenced by expectations.
- Attention is selective.
- Memory is reconstructive.

2

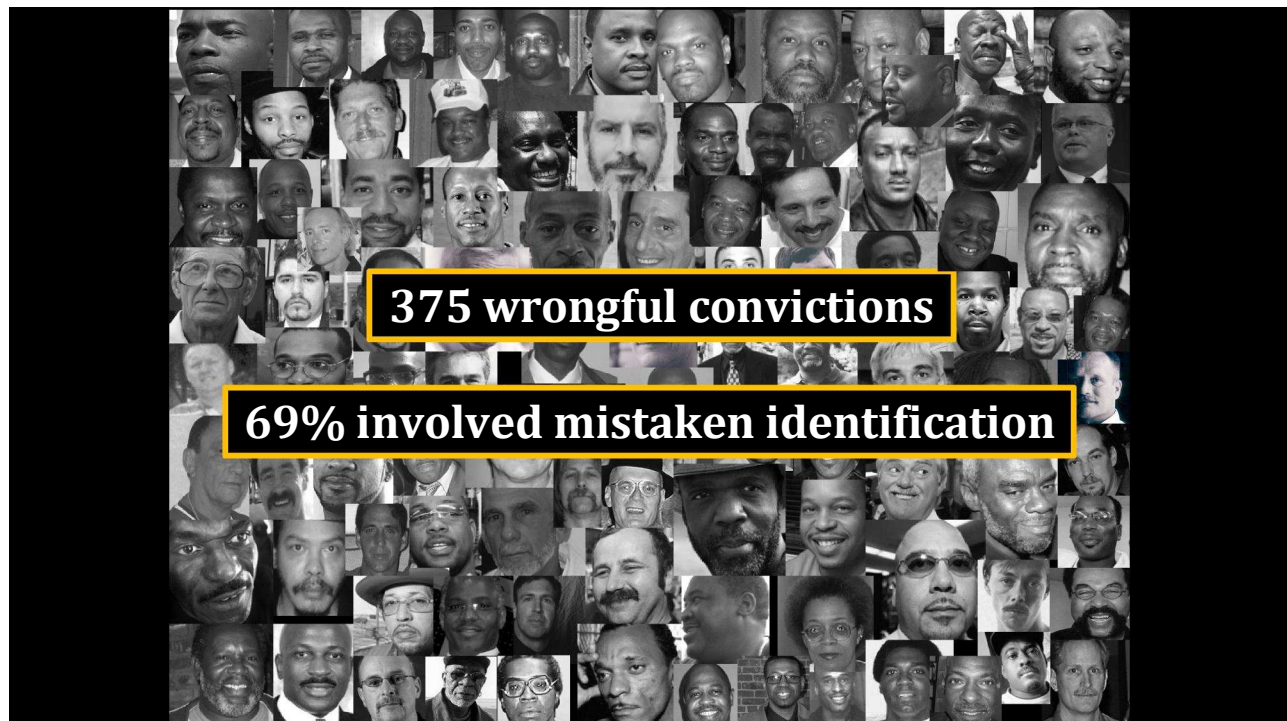
Eyewitness identification



Memory as trace evidence

Wells (1995)

3

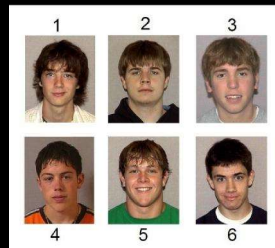
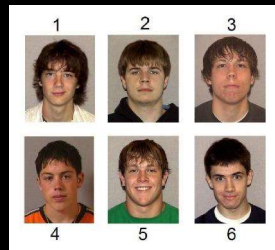


4

Guilty-suspect lineup



Witnessed event



Innocent-suspect lineup

Data collected:

- Identification decision
 - Suspect
 - Filler
 - Rejection
- Confidence in decision

5

1998 "White Paper" on eyewitness identification



**AMERICAN
PSYCHOLOGY
LAW SOCIETY**
DIVISION 41 OF APA


Eyewitness Identification Procedures: Recommendations for Lineups and Photospreads

Gaty L. Wells,¹ Bark Small,¹ Steven Penrod,⁴ Roy S. Malpass,¹
Solomon M. Fulero,⁶ and C. A. E. Brinaacombe

There is increasing evidence that false eyewitness identification is the primary cause of the conviction of innocent people. In 1996, the American Psychology/Law Society and Division 41 of the American Psychological Association appointed a subcommittee to review scientific evidence and make recommendations regarding the best procedures for constructing and conducting lineups and photospreads. Three important themes from the scientific literature relevant to lineup methods were identified and reviewed, namely relative-judgment processes, the lineups-as-experiments analogy, and confidence malleability. Recommendations are made that double-blind lineup testing should be used, that eyewitnesses should be forewarned that the culprit might not be present, that distracters should be selected based on the eyewitness's verbal description of the perpetrator; and that confidence should be assessed and recorded at the time of identification. The potential costs and benefits of these recommendations are discussed.

6

2020 "White Paper" 2.0



**AMERICAN
PSYCHOLOGY
LAW SOCIETY**

Division 41 OF APA

Policy and Procedure Recommendations for the Collection and Preservation of Eyewitness Identification Evidence

Gary L. Wells
Iowa State University

Margaret Bull Kovera
John Jay College and the Graduate Center, City University of New York

Amy Bradfield Douglass Neil Brewer
Bates College Flinders University

Christian A. Meissner John T. Wixted
Iowa State University University of California, San Diego

Objective: The Executive Committee of the American Psychology-Law Society (Division 41 of the American Psychological Association) appointed a subcommittee to update the influential 1998 scientific review paper on guidelines for eyewitness identification procedures. **Method:** This was a collaborative

7

2020 "White Paper" 2.0

Field data from real crimes indicates that eyewitnesses make errors in nearly one out of every four lineups (23.7%).

Nine evidence-based recommendations for conducting lineups

System variables (vs. estimator variables)

System variables Estimator variables

Under the control of the Not under the control of the
criminal justice system criminal justice system

8

1. Evidence-based suspicion

There should be evidence-based grounds to suspect that an individual is guilty before conducting an identification procedure.

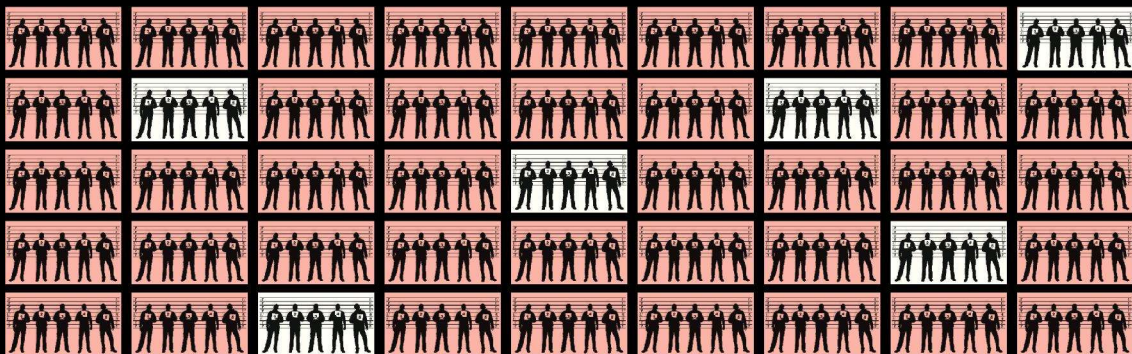
Base rate (of suspect guilt): The likelihood that suspects put into identification procedures are guilty.

- Eyewitnesses make errors.
- Innocent suspect identification errors can occur only in lineups that do not contain the actual culprit.

9

1. Evidence-based suspicion

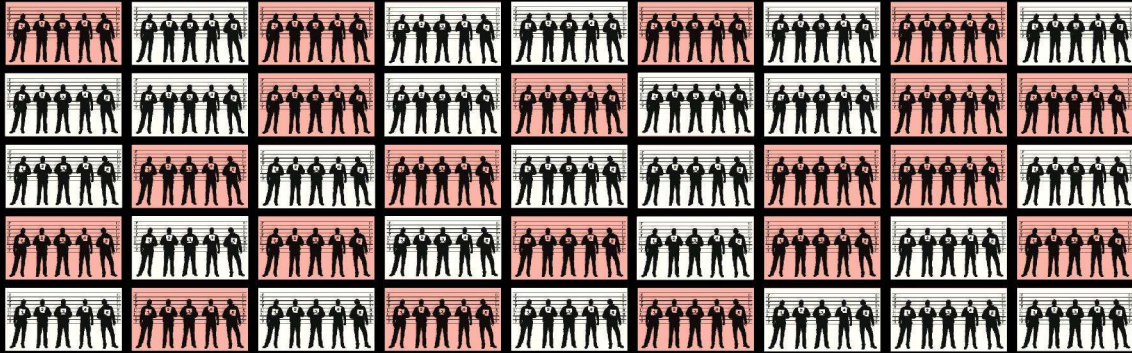
There should be evidence-based grounds to suspect that an individual is guilty before conducting an identification procedure.



10

1. Evidence-based suspicion

There should be evidence-based grounds to suspect that an individual is guilty before conducting an identification procedure.



11

1. Evidence-based suspicion



12

2. Pre-lineup interview

As soon as practicable after the commission of the crime, an officer should interview the witness to:

- Document a description of the culprit
- Obtain self-reports of viewing conditions and attention
- Document claims of prior familiarity with the culprit
- Instruct not to discuss the event with co-witnesses
- Warn against attempting to identify the perpetrator on their own

13

3. Double-blind lineup administration

Lineups should be conducted using a double-blind procedure or an equally effective method of preventing the administrator from influencing the witness.



Rosenthal and Fode (1963); Rosenthal and Jacobson (1963)

14

3. Double-blind lineup administration

Non-blind administrators have been shown to:

- Put more pressure on witnesses to choose (Greathouse & Kovera, 1999)
- Ask witnesses directly about the suspect (Zimmerman et al., 2017)
- Smile when witness is looking at the suspect rather than a filler (Charman & Quiroz, 2016; Zimmerman et al., 2017)
- Differentially record suspect and filler identifications (Rodriguez & Berry, 2014)
- Interpret ambiguous eyewitness statements as being consistent with their beliefs (Charman, Matuku, & Mook, 2019)

15

Cos Anodes Times CALIFORNIA&LOCAL ENTERTAINMENT SPORTS BUSINESS TECH NO

14 DK: Is there anyone who is in terms of shape of their head or shape of their face,
15 you know, jaw, cheeks, catches your eye? And we're just asking uh catches your
16 eye, we're not saying one hundred percent positive.

17 AC: I, I, I don't know because like I said, number, okay, it could be number 6, it could be
18 u, number 4, because of the complexions.

19 DZ: You know I, I kept, kept seeing you go to four and go to six, I kept seeing you go to four,
20 toliWeoThirrikept going four for some reason. And you kept returning to four it
21 seemed like to everybody else. What, what were you looking at? I already know who's
22 in there. I look at your eyes.

23 AC: Mmm hmm.

24 DZ: And I could sec you go to four, this is this, four to one. You kept comparing
25 everybody to four. Was four a reason why you kept comparing everybody to number
four?

16

3. Double-blind lineup administration

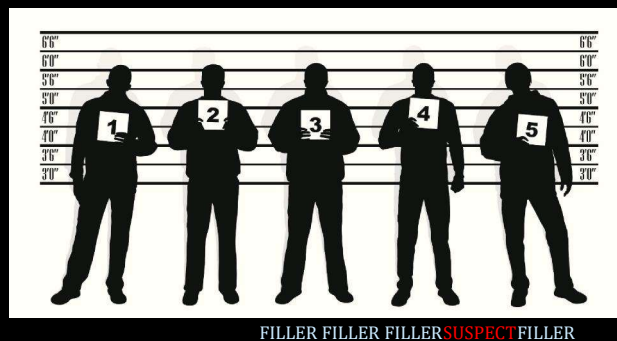
Lineups should be conducted using a double-blind procedure or an equally effective method of preventing the administrator from influencing the witness.

- Double-blind administration
- Self-administered laptop procedure
- Self-administered envelope method

17

4. Lineup fillers

There should be **only one suspect per lineup** and the lineup should contain at least five appropriate fillers who do not make the suspect stand out.

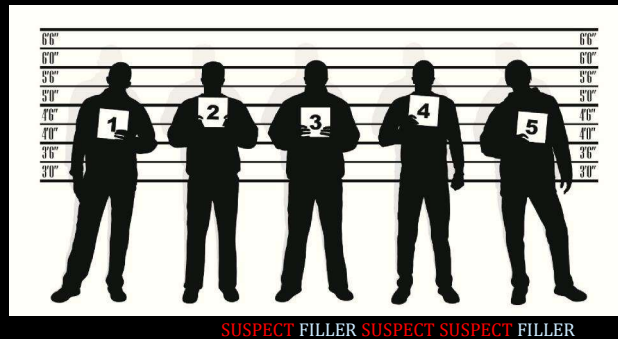


If the witness is merely guessing...
1/5 chance of misidentification

18

4. Lineup fillers

There should be **only one suspect per lineup** and the lineup should contain at least five appropriate fillers who do not make the suspect stand out.



If the witness is merely guessing...
3/5 chance of misidentification

19

4. Lineup fillers

There should be **only one suspect per lineup** and the lineup should contain at least five appropriate fillers who do not make the suspect stand out.



If the witness is merely guessing...
100% chance of misidentification

20

4. Lineup fillers

There should be only one suspect per lineup and the lineup should contain **at least five appropriate fillers who do not make the suspect stand out.**



21

4. Lineup fillers



“Do nothing” lineup “Replication” lineup

Colloff et al. (2016)

22

4. Lineup fillers



“Do nothing” lineup “Pixilation” lineup

Colloff et al. (2016)

23

4. Lineup fillers

Random assignment to guilty suspect
vs. innocent suspect

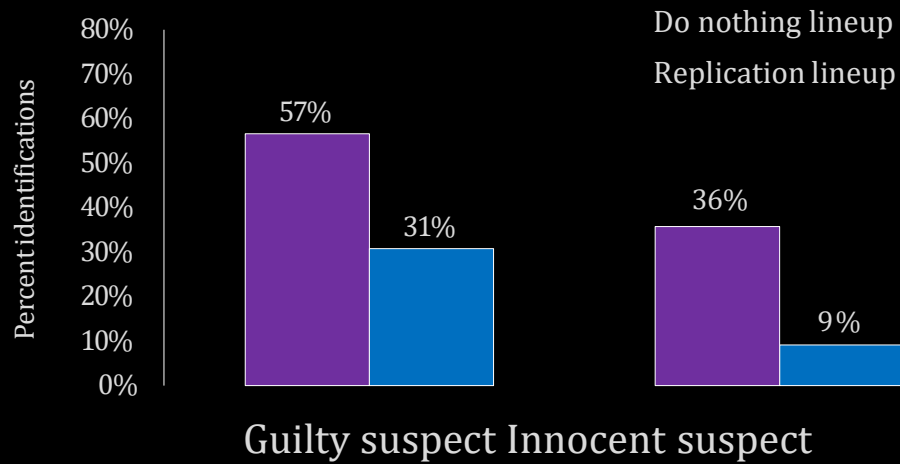


“Do nothing” lineup “Block” lineup

Colloff et al. (2016)

24

4. Lineup fillers



Colloff et al. (2016)

25

5. Pre-lineup instructions

Avoid pre-lineup suggestion and provide pre-lineup instructions

“Man in custody with a violent past and a history of incarceration.”



Johnny Briscoe

26

5. Pre-lineup instructions

Avoid pre-lineup suggestion and **provide pre-lineup instructions:**

- Lineup administrator does not know which person is suspect.
- Culprit might not be in the lineup at all, so the correct answer might be "not present" or "none of these."
- If you feel unable to make a decision, you have the option of responding "don't know."
- After making a decision, confidence will be collected.
- The investigation will continue even if no identification is made.

27

6. Confidence statement

A confidence statement should be taken from the witness as soon as an identification decision is made.

The Relationship Between Eyewitness Confidence and Identification Accuracy: A New Synthesis

John T. Wixted¹ and Gary L. Wells²

¹Department of Psychology, University of California, San Diego, and ²Department of Psychology, Iowa State University

Psychological Science in the
Public Interest
2017, Vol. 18(1) 10-65
ID The Author(s) 2017
Reprints and permissions:
sagepub.com/journalsPermissions.nav
DOI: 10.1177/152910D616686966
www.psychologicalscience.org/PSPI

USAGE

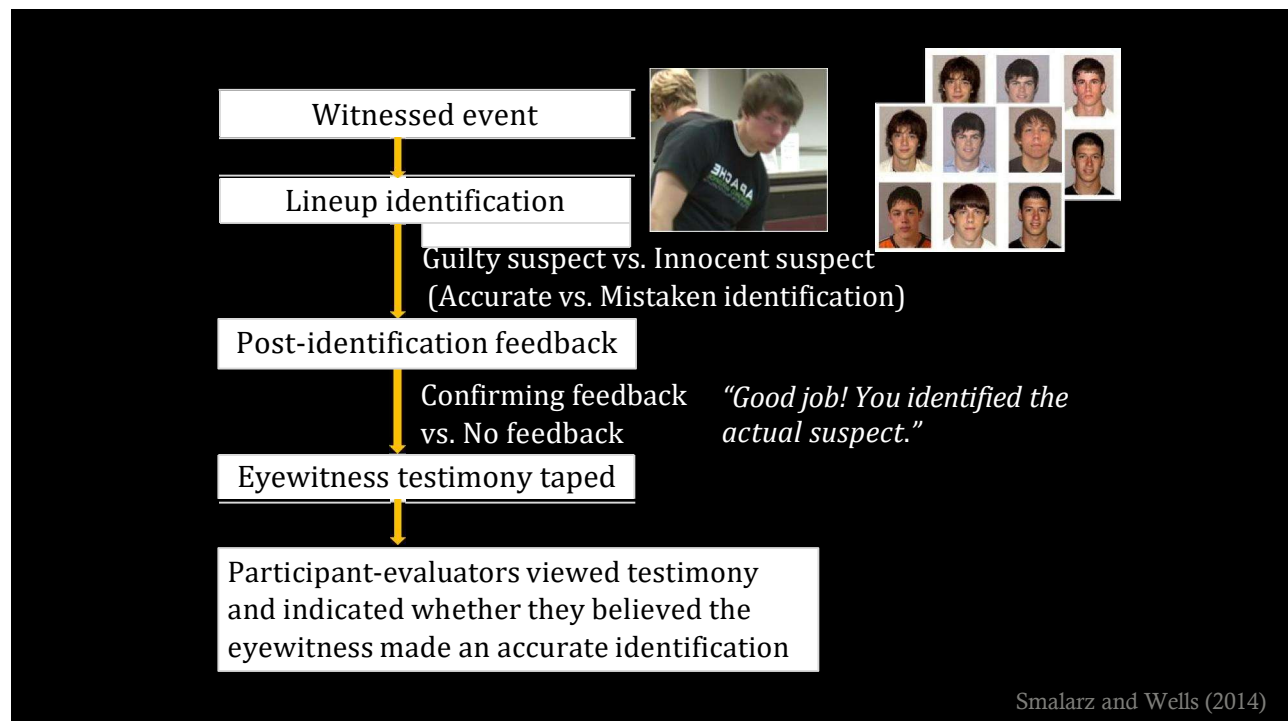
28

6. Confidence statement

Confidence is highly malleable. It can be inflated by:

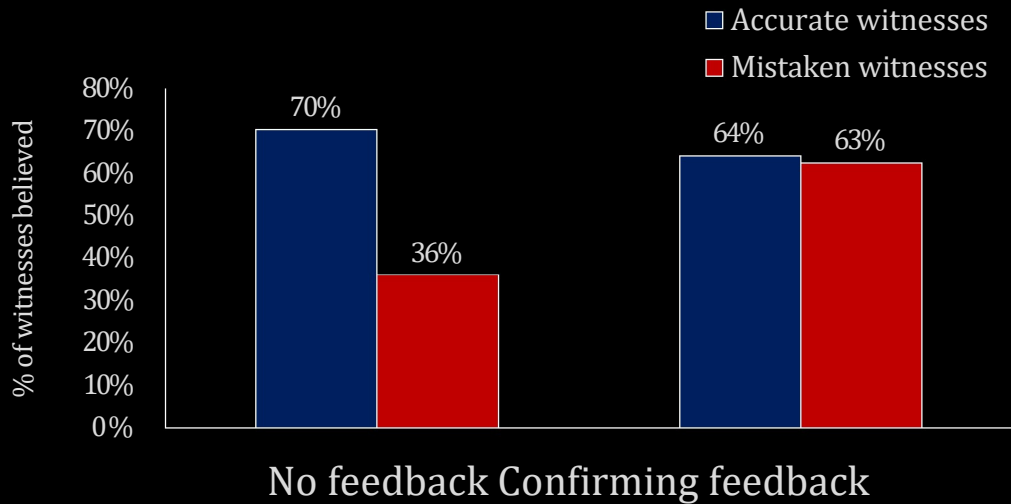
- Suggestive pre-lineup instructions (Stebly, 1997)
- Non-blind lineup administrator (Garrioch & Brimacombe, 2011)
- Poor lineup fillers (Charman & Wells, 2011)
- Post-identification feedback (Stebly, Wells, & Douglass, 2014)

29



30

Post-identification feedback



Smalarz and Wells (2014)

31

7. Video recording

The entire identification procedure, including pre-lineup instructions and witness confidence statement, should be video-recorded.

- Provides an objective record of the identification procedure
- Provides a record of time-to-identification
- Provides a record of the witness's reactions and statements

32

8. Avoid repeated identifications

Repeating an identification procedure with the same suspect and same eyewitness should be avoided regardless of whether the witness identified the suspect in the initial procedure.

- Repeated procedures are suggestive (Wells & Luus, 1990)
- Source-monitoring error (Johnson, Hashtroudi, & Lindsay, 1993)
- Commitment effects (Deffenbacher et al., 2006)
- Confidence inflation (Shaw & McClure, 1996)

33

9. Showups

Showups should be avoided whenever it is possible to conduct a lineup. Cases in which it is necessary to conduct a showup should use established procedural safeguards.



If the witness is merely guessing...

1/5 chance of misidentification

100% chance of misidentification



34

9. Showups

Showups should be avoided whenever it is possible to conduct a lineup. Cases in which it is necessary to conduct a showup should use established procedural safeguards:

- Eliminate suggestive cues
- Provide pre-showup instruction that the detained person might not be the culprit
- Videotape the procedure
- Secure a confidence statement

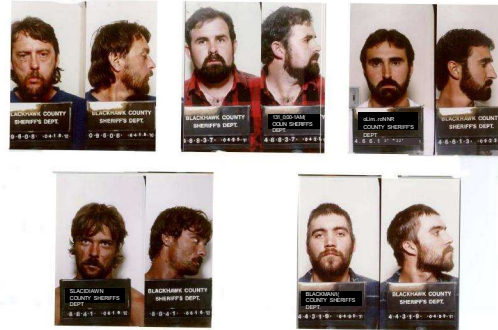
35

Eyewitness expert testimony

- Were best-practice procedures used?
- Is there any other potential explanation for why the witness picked the suspect?
- If best-practices were used and no factors were present that could have biased the eyewitness toward the suspect, a high-confidence suspect identification is likely to be accurate.

36

Thank you



Dr. Laura Smalarz
laura.smalarz@asu.edu